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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,335	10/31/2003	Anthony J. Cafferata	J-3763	5399
28165	7590	06/19/2007		
S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236			EXAMINER FIDEI, DAVID	
			ART UNIT 3728	PAPER NUMBER
			MAIL DATE 06/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/699,335

Applicant(s)

CAFFERATA ET AL.

Examiner

David T. Fidei

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

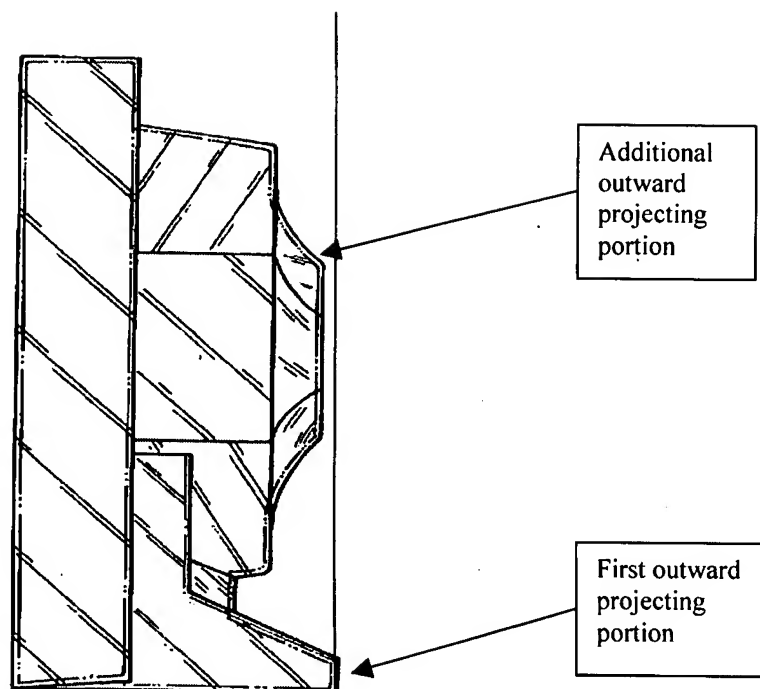
1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

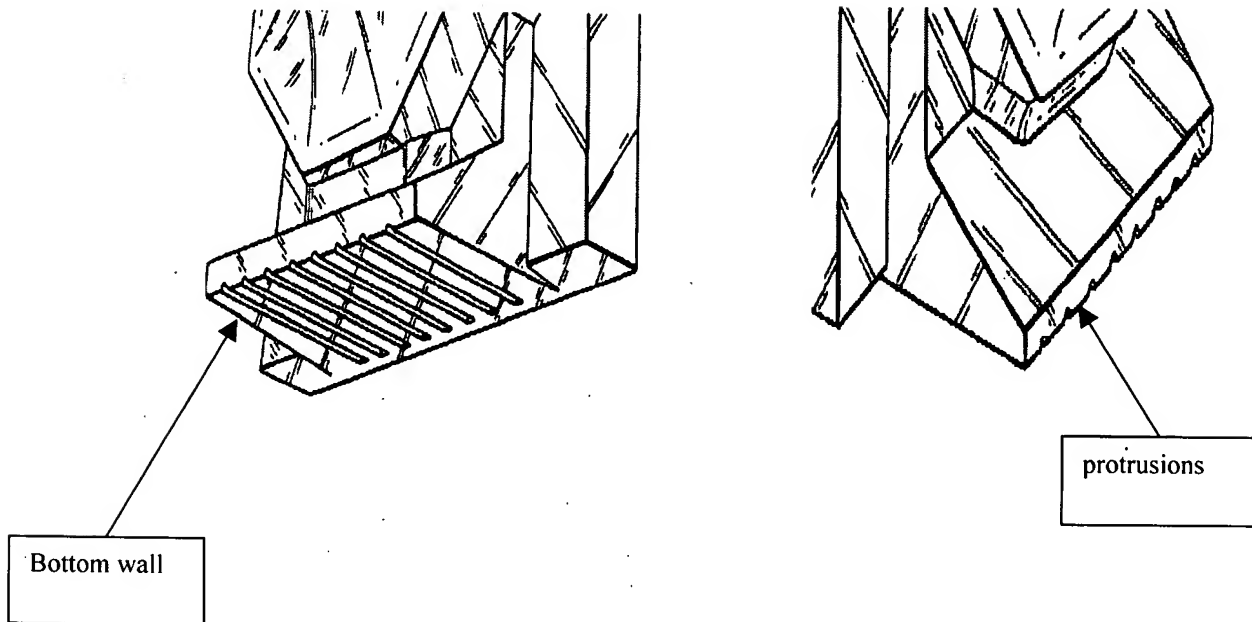
3. Claims 1-4 and 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humphrey (Patent no. D447,408) in view of Perkins (US Patent no. 4,781,289). Humphrey (Patent no. D447,408). As to claims 1, 2, 13 and 14 a package for containing and displaying at is disclosed comprising a back panel, and a front panel attached to said back panel, wherein said front panel comprises a blister pack formed of plastic and including a first outward projecting portion in a bottom portion of said blister pack and at least one additional outward projecting portion having a depth and shape conforming to at least a portion of said at least one article, wherein at least a portion said first outward projecting portion extends widthwise at least a substantial portion between a first side of said blister pack and a second side of said blister pack, and has a depth outward sufficient to allow said package to stand substantially upright. As shown by the figure below the depth of said at least a portion of said first outward projecting portion is greater than an outermost projecting portion of the depth of said at least one additional outward projecting portion.



The difference between above claims and Humphrey resides in the depth of the first portion equal to a greatest depth of an outermost projecting portion of the additional outward portion. Perkins Col. 3, lines 8-10 states the depth of support structure 22 should be comparable to the depth of product enclosure 20. It would have been obvious to one of ordinary skill in the art to modify Humphrey by constructing the first portion equal to a greatest depth of an outermost projecting portion of the additional outward portion as suggested by Perkins, in to provide a self supporting package while not making the base excessively deep.

As to the newly amended subject matter, a package wherein said first outward projecting portion includes a bottom wall having integral therein at least two spaced apart downward protrusions, see the figure below where protrusions are defined on the bottom.

Art Unit: 3728



As to claim 3, a package is shown above according to claim 1 wherein said at least one additional outward projecting portion is continuous with said first outward projecting portion.

As to claim 4, a blister pack according to claim 2 is shown wherein said at least one additional outward projecting portion is continuous with said first outward projecting portion.

As to claims 7 and 8, a package according to claims 1 and 2 is shown where the first outward projecting portion includes a front wall of uniform depth.

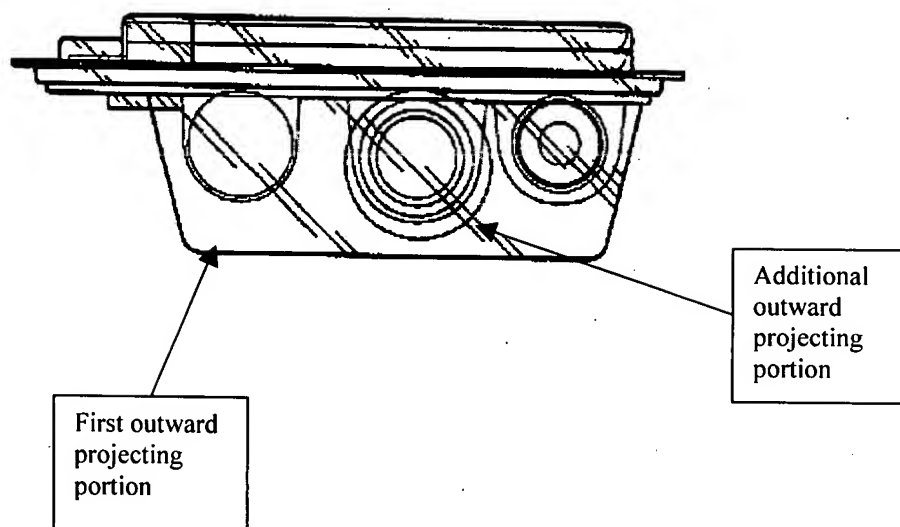
As to claims 9 and 10, one of said portions of non-uniform depth is a wall of one of said at least one additional outward projecting portion

As to claims 11 and 12, the first portion is substantially rectangular when view from the front side in as much as is claimed.

4. Claims 1-4, 7-12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Udwin et al (Patent no. D467,494) in view of Perkins (US Patent no. 4,781,289) and

Art Unit: 3728

Glassman (US 2001/0007308 A1). Udwin et al (Patent no. D467,494). As to claims 1 and 2 a package for containing and displaying at is disclosed comprising a back panel, and a front panel attached to said back panel, wherein said front panel comprises a blister pack formed of plastic and including a first outward projecting portion in a bottom portion of said blister pack and at least one additional outward projecting portion having a depth and shape conforming to at least a portion of said at least one article, wherein at least a portion said first outward projecting portion extends widthwise at least a substantial portion between a first side of said blister pack and a second side of said blister pack, and has a depth outward sufficient to allow said package to stand substantially upright. As shown by the figure below the depth of said at least a portion of said first outward projecting portion is greater than an outermost projecting portion of the depth of said at least one additional outward projecting portion.



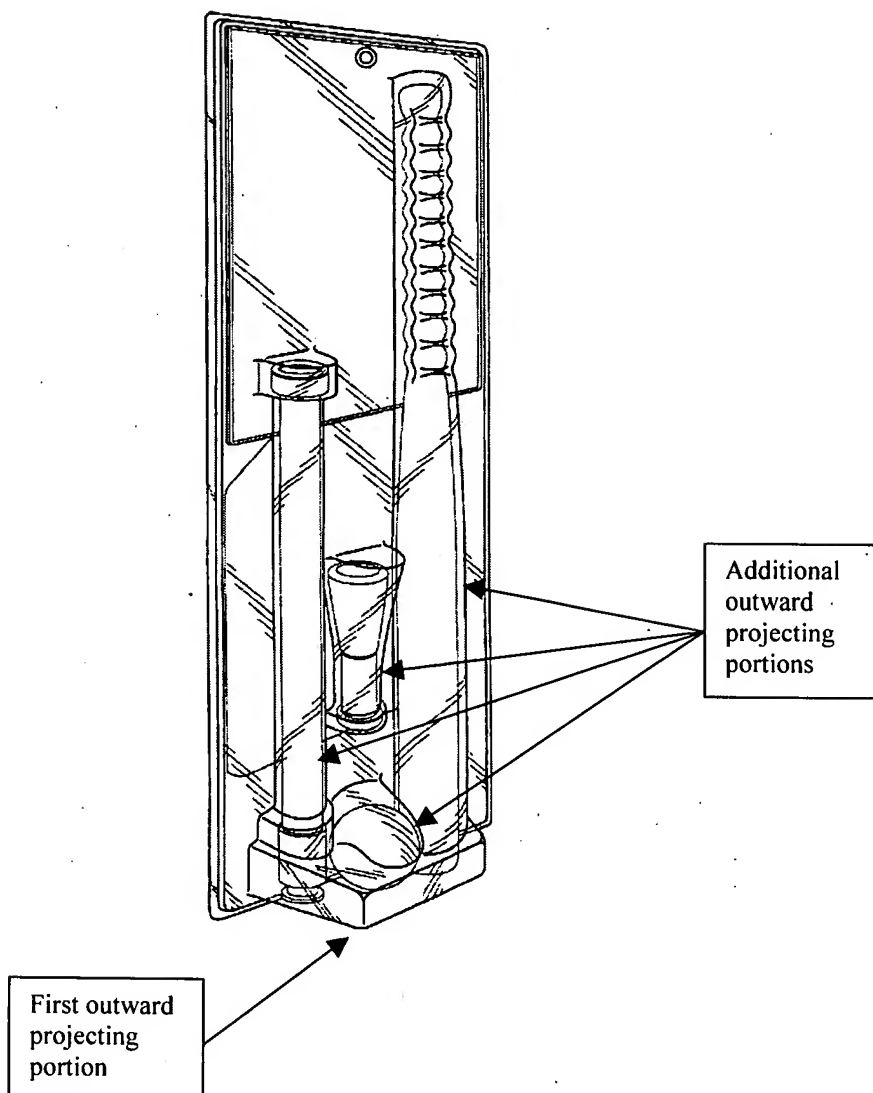
The difference between claims 1, 2 and Udwin resides in the depth of the first portion equal to a greatest depth of an outermost projecting portion of the additional outward portion. Perkins Col. 3, lines 8-10 states the depth of support structure 22 should be comparable to the depth of product enclosure 20. It would have been obvious to one of ordinary skill in the art to

Art Unit: 3728

modify Udwin by constructing the first portion equal to a greatest depth of an outermost projecting portion of the additional outward portion as suggested by Perkins, in order to provide a self supporting package while not making the base excessively deep.

As to the newly added first outward projecting portion including a bottom wall having integral therein at least two spaced apart downward projections, Glassman discloses a clamshell package including a clamshell member 12 including two feet 38, 40 as shown in figure 1. It would have been obvious to one of ordinary skill in the art to modify the first outward projecting portion of Udwin by constructing at least two spaced apart downward protrusion as taught by Glassman, in order to form feet for supporting the package in the upright position.

FIG. 1



As to claims 3 and 4, a package is shown above according to claims 1 and 2 wherein said at least one additional outward projecting portion is continuous with said first outward projecting portion.

As to claims 7 and 8, a package according to claims 1 and 2 is shown where the first outward projecting portion includes a front wall of uniform depth.

As to claims 9 and 10, one of said portions of non-uniform depth is a wall of one of said at least one additional outward projecting portion

As to claims 11 and 12, the first portion is substantially rectangular when view from the figure on the previous page in as much as is claimed.

As to claim 15 and 16, a package is shown in the figure where said at least one additional outward projecting portions are present, on either side of the middle additional projection portion, wherein said two of said at least two additional outward projecting portions are of different depths from each other.

Response to Arguments

5. Applicant's arguments filed May 5, 2007 have been fully considered but they are not entirely persuasive. While Perkins does not teach a closed bottom as presently claimed but discloses the openness of the bottom aids in opening of the blister pack, other references are applied to the claimed subject matter that includes a closed bottom.

Humphrey (Patent no. D447,408) discloses a package having a closed bottom with a series of grooves running there along that defines at least two spaced apart downward protrusions as claimed. While Humphrey may not appear to have the self-indexing alignment feature as in applicant's invention, the issue under obviousness is what the prior art taken as a whole suggests. Regardless of the openness of the bottom support structure 22 in Perkins, it is suggested that the depth of a product enclosure 20 be comparable to the depth of structure 22. in order to prevent the package from falling over while not making the base excessively deep so as to occupy unnecessary shelf space. It would have been prima facie obvious to one of ordinary skill in the art to modify Humphrey by constructing the first portion equal to a greatest depth of an outermost projecting portion of the additional outward portion as suggested by Perkins, in to provide a self supporting package while not making the base excessively deep.

The same logic applies to the T-Ball kit package of Udwin et al where a bottom support structure is constructed that extends outwardly from a panel along with product supporting portions. It would have been obvious to one of ordinary skill in the art to modify Udwin by constructing the first portion equal to a greatest depth of an outermost projecting portion of the additional outward portion as suggested by Perkins, in order to provide a self supporting package while not making the base excessively deep. Accordingly, it is submitted Applicant's claimed

Art Unit: 3728

invention would have been obvious to one of ordinary skill in the art at the time the invention was made as evidenced by the prior art advanced over the pending claims.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fidei whose telephone number is (571) 272-4553. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/699,335

Art Unit: 3728

Page 10

A handwritten signature in black ink, appearing to read 'D. Fidei', is positioned above the printed name.

David T. Fidei
Primary Examiner
Art Unit 3728

Dtf

June 11, 2007